

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3925 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

PUSHPABEN MUKUNDRAY TRIVEDI SINCE DECEASED THRO' HEIRS&L.R.

Versus

STATE OF GUJARAT

Appearance:

MS BELA PRAJAPATI for Petitioners
MS MANISHA LAVKUMAR for Respondent No.1, 2 & 3
None present for Respondent No. 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/07/2000

ORAL JUDGEMENT

#. On 7.7.2000, this court has given directions to the respondent to file further detailed reply giving therein para-wise reply to the contents of the special civil application but this order has not been complied with.

#. Heard the learned counsel for the parties.

#. From the document, annexure-G, at page No.28, of the District Education Officer, Ahmedabad (Rural), I find that it is the case of premature retirement which the husband of the deceased petitioner sought on the ground that he was keeping not good health because of cancer ailment. It is true that in para-15 of the special civil application, it is mentioned that the husband of the late petitioner has resigned from the services but we have to go by substance of the matter and looking to the fact that the deceased employee had rendered already services qualifying him for pension and in fact in regular course, he is to retire within a short period, it is a clear case of premature retirement. It is unfortunate that the officers of the Welfare State has taken a technical approach in the matter and deprived of that person of pension and other retirementary benefits and in turn family pension to the petitioner, since deceased. The employee as well his widow could not get pension and other retirementary benefits during their life time for the reason that the officers of the Welfare State acted highly arbitrarily, unreasonably and totally with perverse approach. This court has also failed to decide this matter for about 13 years. This category of cases deserve to be given priority in hearing but there appears to be no classification of matters and as such, the matters are not getting urgent attention of the court. We are having totally computerised programme and it may not be difficult for the registry to classify the cases and with the permission of Hon'ble the Chief Justice, to give them priority in hearing. The learned counsel for the respondents does not dispute that the services of the deceased employee were pensionable. It is unfortunate that the pay of the deceased employee has also not been revised as per the recommendation made by Desai Pay Commission.

#. In the result, this special civil application succeeds and the same is allowed and the respondents are directed to fix the pay of the deceased employee in the revised pay scale as recommended by the Desai Pay Commission, determine the arrears of fixation of pay in revised pay scale, then fix the pension of the deceased employee as per his last pay drawn, determine the arrears of pension as well as all other retirementary benefits and to pay the same to the petitioners. Determination of arrears of pension has to be made till the date on which the employee has expired. From the next date of the death of employee, family pension payable to the deceased

petitioner, widow of the employee, shall be fixed and arrears thereof accordingly also to be determined and paid to the petitioners till the date she was alive. All these exercise has to be completed in all respects within three months from the date of receipt of writ of this order. The petitioner shall also be entitled for interest on the arrears of fixation of pay to be fixed, all pension and other retirementary benefits as well as family pension from the date of filing of this petition till the date of payment thereof at the rate of 12% p.a. As the learned counsel for the petitioner states that she has not charged any fees from the petitioners, no order as to costs. Rule is made absolute accordingly.

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(sunil)